

**REMARKS**

Applicants appreciate the Examiner's thorough review of the present application, and respectfully request reconsideration in light of the preceding amendments and the following remarks.

Claims 1-20 are pending in the application. The original claims have been amended to better define the claimed invention. New claims 18-20 have been added to provide Applicants with the scope of protection to which they are believed entitled. The amended/new claims find solid support in the original specification and drawings. No new matter has been introduced through the foregoing amendments.

The Examiner's rejections of claims 1-17 as being either anticipated by *Gesp* (WO 1997/28774) or obvious over *Gesp* in view of *Loescher* (EP 974,326) or *Tanzer* (U.S. Patent No. 6,730,069) are *traversed*, because the applied references singly or in combination fail to disclose, teach or suggest all limitations of the rejected claims.

In particular, Applicants respectfully disagree with the Examiner's interpretation of *Gesp*. According to the Examiner, *Gesp* teaches, in FIG. 2, a region 48b which is not engageable with hooks 54b (*see* FIG. 3 of *Gesp*) and is, therefore, readable on the claimed non-engaging portion. However, the reference so interpreted would still fail to teach or suggest the limitation of original claim 1 that "said fixing tape and said side flap are to be engaged through said hook member." As can be seen in FIGs. 3, 7, 10 and 13 of *Gesp*, fixing tape 32 and side flap 12 are engaged through adhesive 52, rather than through hook member 54. Therefore, the art rejections are inappropriate and should be withdrawn.

Notwithstanding the above, Applicants have amended independent claim 1 to specifically define the claimed invention over the applied art of record, solely for the purpose of expediting prosecution.

Amended independent claim 1 now recites a disposable diaper, comprising, among other things, (i) “the side flaps being disposed between said top sheet and back sheet,” and (ii) “each of said side flaps comprising an elastic sheet sandwiched between upper and lower non-woven fabric layers.” Furthermore, the last paragraph of original claim 1 has been amended to recite (iii) “an engaging region provided on each said side flap... [and] including portions having an engaging force with said hook member that is different from an engaging force in other portions of said engaging region.”

*Gesp* does not appear to fairly teach or suggest limitations (i) and (ii) of amended claim 1 as can be seen from FIGs. 1-14 of *Gesp*. The reference also fails to teach or suggest limitation (iii) for the reason advanced above with respect to original claim 1, i.e., in *Gesp*, fixing tape 32 and side flap 12 are engaged through adhesive 52, rather than through hook member 54, contrary to the claimed invention.

The deficiencies of *Gesp* are not deemed curable by the teaching references which are relied upon for other claim features.

Accordingly, Applicants respectfully submit that amended claim 1 is patentable over the applied art of record.

Claims 2-16 depend from claim 1, and are considered patentable at least for the reason advanced with respect to amended claim 1.

As to claim 10, the Examiner obviousness argument found in page 4 of the Office Action is improper as claim 10 is rejected under 35 U.S.C. 102(b). See Office Action at page 2, lines 4-5 from bottom.

As to claim 15, the Examiner’s obviousness rejection relying additionally on *Tanzer* is erroneous, because *Tanzer* teaches openings in the hook member, rather than in the attaching

portion as presently claimed. *See* e.g., FIGs. 5-6 of *Tanzer*, i.e., hooks 64 and openings 80 are not formed in the manufacturer's bond end 84. *See also Tanzer* at column 9, line 34.

As to claim 17, Applicants respectfully submit that the applied references, especially *Gesp*, fail to teach or suggest the claimed engaging region which includes therein a non-engaging portion. According to the Examiner, *Gesp* discloses a "non-engaging portion" 52 which is substantially incapable of engaging hook portion 54. *See* Office Action at page 5, lines 1-3. However, the Examiner has not specify how *Gesp* teaches the claimed engaging region "with which said hook member of said fixing tape is to be engaged" and which "includes therein a non-engaging portion." The *Gesp* "non-engaging portion" 52 is not disclosed to be included in any engaging region with which hook portion 54 is to be engaged.

New independent claim 18 is patentable over the applied art of record because the art fails to teach or suggest that, "when said fixing tape is temporarily fixed to said side flap before use, said engaging portion is in direct contact and engaged with some, but not all, of the hooks of the respective hook member." The highlighted claim limitation finds support in at least FIGs. 5-9 of the Applicants as filed, at element 7b. In *Gesp*, when the fixing tape is temporarily fixed to the side flap before use, none of the hooks of hook member 54 are in direct contact and engaged with any engaging portion. *See*, e.g., FIGs. 3, 7, 10, and 13 of *Gesp*.

The deficiencies of *Gesp* are not deemed curable by the teaching references which are relied upon for other claim features.

Accordingly, Applicants respectfully submit that claim 18 is patentable over the applied art of record.

Claims 19-20 depend from claim 18, and are considered patentable at least for the reason advanced with respect to claim 18. The dependent claims are also patentable on their own merits since these claims recite other features of the invention neither disclosed, taught nor suggested by

the applied art.

As to claim 19, the applied references do not teach or suggest that, when said fixing tape is temporarily fixed to said side flap before use, said non-engaging portion is in direct contact with other hooks of the respective hook member. The highlighted claim limitation finds support in at least FIGs. 5-6B, and 8-9 of the Applicants as filed, at element 7a. in *Gesp*, when the fixing tape is temporarily fixed to the side flap before use, non-engaging portion 48b (FIG. 2) is not in direct contact with any hooks of hook member 54. *See*, e.g., FIGs. 3, 7, 10, and 13 of *Gesp*.

As to claim 20, the applied references do not teach or suggest the claimed attaching portion having an opening through which a portion of said surface of said side flap is exposed to define said engaging portion; and when said fixing tape is temporarily fixed to said side flap before use, said fixing tape is in a folded state with the respective hook member facing said surface of said side flap, some of the hooks of said hook member extending through the opening and directly engaging with the exposed portion of said surface of said side flap. Note the discussion *supra* with respect to claim 15.

Each of the Examiner's rejections has been traversed. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

**LOWE HAUPTMAN & BERNER, LLP**

  
Benjamin J. Hauptman  
Registration No. 29,310

*USPTO Customer No. 22429*  
1700 Diagonal Road, Suite 310  
Alexandria, VA 22314  
(703) 684-1111 BJH/KL/kbl/cjf  
(703) 518-5499 Facsimile  
**Date: July 13, 2006**